

REMARKS

Summary of Office Action

Claims 1-3 are pending. Claims 4-7 remain withdrawn from consideration as drawn to non-elected inventions.

Claims 1-3 have been rejected under 35 U.S.C. 102 (a) as being anticipated by Afeyan et al. U.S. Patent No. 7,016,882 ("Afeyan")

Applicants' Reply

Applicants respectfully traverse the prior art rejection of claims 1-3.

Applicants' claim 1 reads:

1. A method for determining the post-launch performance of a product on a market, comprising:

storing, in a database, collected first data related to at least one key success factor associated with at least a market performance which is related to said product;

storing, in a database, collected second data related to unmet product needs on said market;

storing, in a database, collected third data related to a propensity of a decision-maker to choose said product;

linking a computer to said databases; and

using a simulation model on said computer to calculate a future market share of said product based on said collected first, second, and third data, thereby determining said post-launch performance on said market.

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As previously submitted, applicants' invention, according to claim 1, relates to a process for an analytical evaluation of a product marketing effort for a "specific" product in the context of the presence of several competitive products on the market. The subject product may, for example, be a new pharmaceutical drug. In particular, claim 1 includes the steps of assembling databases of various market data specific to products including data related to a success factor in a market performance of the subject product (e.g., success factors such as product detailing, adoption and capture rates); data on unmet or latent product needs in the market; and data on the proclivity of decision makers (e.g., prescribing physicians, insurance and hospital personnel) to choose the subject product over other products. Claim 1 further includes the steps of using a computer simulation model to project a future market share of the specific product based on the assembled market product data.

Afeyan patent is unrelated

Applicants respectfully submit that cited Afeyan patent is unrelated and does not show the elements of claim 1.

Afeyan describes an interactive electronic design tool for presenting tangible product designs (e.g., Polo shirt design) to a group of design selector. (See Abstract, FIG. 7, etc.).

Applicants respectfully submit that the Office Action does not provide sufficient or properly identified factual information to make out any case of anticipation. Applicants respectfully note that Office Action ¶ 3, which only states that Afeyan discloses (e.g., FIGS. 1-5), a selector that evaluates market analysis performance of a product using a plurality of data

e.g., 210-218" does not provide sufficient information as to which elements of claim 1 are allegedly disclosed Afeyan.

Applicants' careful reading of Afeyan also fails to find any teaching of all of the elements of claim 1. Applicants note that Afeyan only describes an interactive electronic design tool for presenting tangible product designs (e.g., Polo shirt design) to a group of design selectors who can view the designs online and vote to accept a design or request new designs. (See Abstract , FIGS. 1- 7, etc.).

The Afeyan patent is not prior art under § 102(a)

More importantly, applicants respectfully submit that the Office Action mistakenly cites the Afeyan patent as prior art under § 102(a) against the instant application.

Applicants note that the instant application has a "Filing or 371 (c) Date" of December 5, 2001.

The Afeyan patent issued on March 21, 2006 on patent application No 10/831,881 having Filing date of April 26, 2004 as recorded on USPTO's PAIR website and on the face of the patent. Applicants have also noted that that a patent application No. 10/053,353, which is presumably parent to the cited Afeyan patent, was published as US patent publication No. 2003-0088458 A1 on May 8, 2003.

Applicants note that the May 8, 2003, and March 21, 2006 publication dates associated with the cited Afeyan patent are more than one year behind or subsequent to applicants' filing date of December 5, 2001. Therefore, the Afeyan patent therefore does not qualify as § 102(a) prior art against the instant application. (See e.g., MPEP § 2132.01).

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Dependent claims 2 and 3

Dependent claims 2 and 3 are patentable for at least the same reasons that their parent claim 1 is patentable as discussed above.

Conclusion

Applicants respectfully submit that this application is now in condition for allowance. Reconsideration and prompt allowance of which are requested. If there are any remaining issues to be resolved, the applicants request an interview with the Examiner for quick resolution. Applicants respectfully request that Examiner contact the undersigned attorney for a telephone interview.

Respectfully submitted,



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